

RD AN No. 3715 (1980-D)
February 19, 2002

TO: State Directors
Rural Development

ATTENTION: Rural Housing Program Directors,
Guaranteed Loan Specialists,
Rural Development Managers, and
Community Development Managers

FROM: James C. Alsop(*Signed by James C. Alsop*)
Acting Administrator
Rural Housing Service

SUBJECT: Single Family Guaranteed Rural Housing Loan Program
Loss Claim Appraisal Requirements and Real Estate Owned Inspection
Requirements

PURPOSE ANTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify the loss claim appraisal process and property inspection and eviction requirements for real estate owned property (REO) when lengthy eviction proceedings or redemption periods are applicable. The AN will also clarify lender inspection requirements for REO property.

COMPARISON WITH PREVIOUS AN:

No previous AN has been issued on this subject.

BACKGROUND:

Due to a lack of specificity in RD Instruction 1980-D, there has been some inconsistency in the treatment of REO in states with mandatory redemption periods or when eviction proceedings occur. If the property is occupied at the time of property valuation, the interior condition of the property can not be determined in many cases. The interior condition could have a significant impact on the overall property value. RHS and the lender have a common interest in effectively assessing an accurate value of the REO property before a loss claim is settled.

EXPIRATION DATE:
February 28, 2002

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

Currently, a lender is required under RD Instruction 1980-D, Section 1980.376 to submit a property disposition plan within 30 days from the date the property is acquired. If no sale offer has been accepted within six months from the date the property is acquired, the Agency orders a liquidation value appraisal to be used as a basis for claim settlement. If the property is occupied, the Agency's appraisal would most likely be of the exterior of the property only.

IMPLEMENTATION RESPONSIBILITIES:

Effective with this AN, if interior inspection of a property cannot be obtained or accessed within six months from the foreclosure sale due to a state redemption period, an incomplete eviction or some other legitimate reason, the Agency should wait until interior access is obtained to order the liquidation appraisal. This will reduce the number of claims filed based on estimated exterior values. The Agency will continue to pay interest accrued for a period no greater than six months from the date the property is acquired in accordance with RD Instruction 1980-D, Section 1980.376. This will encourage lenders to pursue and complete evictions and resolve any redemption rights aggressively. If the lender prefers not to wait until possession or access can be obtained for an internal inspection and an appraisal can be conducted, then the Agency will obtain and use a liquidation value appraisal of the property in accordance with RD Instruction 1980-d, Section 1980.376 to process the loss claim.

Lenders and RHS State Offices must ensure that staff members are familiar with state statutes related to redemption procedures and time frames. For example, in Alabama, there is a one-year redemption period but the purchaser at foreclosure sale has the right to immediate possession; therefore, a delay in the marketing of the property is not warranted. Certain states will reduce the redemption time frame if the property is abandoned or if the loan-to-value ratio is greater than a certain percentage. Regular property inspections documented by the lender will allow RHS to determine whether the lender's rights related to redemption expiration and property possession were exercised expeditiously.

Within the applicable legal confines, lenders must diligently attempt to obtain possession of or access to REO. To demonstrate that loans with required eviction proceedings or redemption periods are being serviced diligently and to avoid reduction of the loss claim for negligent servicing, lenders will be required to obtain written property inspections performed within 20 calendar days from the date of the foreclosure sale for properties that are subject to these conditions. Subsequent monthly inspections must be obtained to verify occupancy status until physical possession by the lender is obtained. These additional information requirements are permitted under paragraph I(B)(9) of the lender's agreement (Form FmHA 1980-16). Lenders may perform inspections through a realtor or property preservation vendor. The cost of property inspections performed by property preservation vendors are considered REO management expenses and are reimbursable to the lender within the limits of the guarantee. Verbal property

inspection reports obtained from realtors are acceptable as long as they are documented in the comments on the lender's servicing system. The comment must include the date the comment was created, the date that the property was inspected and the occupancy status at the time of the inspection.

If it is determined that the REO property is unlawfully occupied, eviction proceedings should be instituted and pursued diligently within 30 calendar days of the foreclosure sale if there is no applicable redemption period precluding the lender from doing so. If there is an applicable redemption period, the lender should institute eviction within 30 calendar days of the applicable redemption period expiration. Documentation to support institution of eviction includes legal documents, such as the Summons and Complaint, Notice to Vacate, etc., or comments on the lender's servicing system indicating the date the comment was created along with the eviction status.

Agency loss claim approval officials will be responsible for reviewing eviction and redemption documentation and inspection results at the time the loss claim is filed. The state office should use the property inspections and eviction information to determine whether any property damage may have been attributed to the lender's neglect to perform a timely eviction or protect and preserve the property during the liquidation phase. Lenders unable to provide evidence of timely inspections or evictions may be subject to claim reductions in accordance with RD Instruction 1980-D, Section 1980.376.

Each State Office is responsible for notifying state-approved lenders of the property disposition procedures provided in this AN. The National Office will advise nationally-approved lenders concurrent with the issuance of this AN.

In addition, during lender compliance reviews, RHS should review files in an effort to ensure that lenders are complying with the inspection, eviction and redemption procedures. Lenders that are determined to be out of compliance should be counseled on the provisions of the regulations and monitored closely for future compliance.

Questions about this AN may be directed to Jenise Hight of the SFH, Guaranteed Loan Division, USDA, Rural Housing Service, 1400 Independence Avenue, SW, Washington, DC 20250-0784. The telephone number is (202) 720-1452.